



APPROPRIATIONS & CROSSCUTTING WEEKLY NEWS

Office of Congressional and Intergovernmental Relations

Week Ending August 30, 2018

Pentagon, Other Agencies Still Face Possible CR, Even Shutdown

Excerpts taken from CQ.com

The Defense Department stands a 50-50 chance of operating under the constraints of a continuing resolution for at least the first couple months of fiscal 2019 and quite possibly beyond, a number of Washington insiders predict. What's more, analysts and lobbyists say, one or more government shutdowns are not out of the question.

If the Pentagon had to operate under a CR, it would be the tenth year in a row that the department's operations would be hamstrung for some or all of the fiscal year. The military brass has vocally opposed CRs because they do not allow new programs to be launched and funding must stay at current levels.

Despite lawmakers' unusual progress lately in passing appropriations bills for fiscal 2019, which starts on Oct. 1, none of those funding measures has been finalized. In just over a month, Congress will likely have to send President Donald Trump a CR for fiscal 2019 that will almost certainly cover multiple departments, such as Commerce, Homeland Security and State, whose funding bills neither chamber has even taken up. That CR may also include the Pentagon, some say, mainly because of the lack of time on the congressional calendar in September to finish a House-Senate conference on Defense appropriations and then vote on it in both chambers.

The all-but-inevitable CR is likely to last until Thanksgiving or even Christmas, experts say, and another, even longer, CR may follow that one. In fact, some analysts think the CR or CRs may not even become law, at least not right away, because the president may shut the government down instead, despite his recent indications to the contrary. His point would be to insist that Congress send him money to build his long-sought wall on the U.S.-Mexico border.

The House has passed six of the 12 spending bills for fiscal 2019, and the Senate has approved nine of them. As for the Pentagon bill ([HR 6157](#)), the House passed its version on June 28, while the Senate passed on Aug. 23 a measure combining its Defense money bill with its Labor-HHS-Education measure. Even before the Senate passed its Defense bill, appropriations aides from both chambers had been working for many weeks to reconcile the Senate and House measures. The two bills have widely different dollar allocations for defense procurement and research, particularly for initiatives such as hypersonics, F-35 fighter jets and shipbuilding. The Senate, unlike the House, would cut billions in aid for foreign militaries.

The differences are hardly irreconcilable, and House and Senate negotiators contend they have made progress on the Pentagon measure. The limited time between now and Oct. 1 is a factor increasing the odds of a CR for most of the government, including possibly the Pentagon. There are just 11 legislative days in September. None of the appropriations bills has made it through conference, and several will not even start a conference.

Congress is eyeing votes in September, if all goes as planned, on three packages of appropriations conference reports. In addition to the Defense and Labor-HHS-Education measure, conferees are working on a second bundle of bills covering Energy-Water, Legislative Branch and Military Construction-VA ([HR 5895](#)) and a third for Agriculture, Transportation-HUD and Financial Services and Interior-Environment bills ([HR 6147](#)).

But debating and voting on the nomination of Judge Brett Kavanaugh to serve as a justice on the Supreme Court will devour much of the Senate's floor time and energy in September. A farm bill conference report is also supposed to come up. If a CR or even final spending bills are presented to the president, it is not clear he will sign them into law, though the Defense bill would be the hardest for him to veto because of GOP support for that measure.

ECOS Meets To Debate Key EPA Policies For States

The Environmental Council of the States (ECOS)—the body that represents state environment commissioners, is holding its fall meeting this week, with a focus on EPA's relationship with states, and in particular several water policy issues. The meeting runs from August 27—30 in Stowe, VT. Open panels are scheduled on drinking water contamination from per- and polyfluoroalkyl substances (PFAS), oil and gas drilling, and cross-cutting issues like cooperative federalism.

Pentagon Challenges 'Secret Science' Proposal

Excerpts taken from E&E News

Add the Defense Department to the ranks of those expressing concern about EPA's plans to restrict the use of scientific research in writing new regulations. "While we agree that public access to information is very important, we do not believe that failure of the agency to obtain a publication's underlying data from an author external to the agency should negate its use," Patricia Underwood, a senior Pentagon official in the Office of the Assistant Secretary of Defense for Energy, Installations and Environment, wrote in recent comments on the EPA proposal. Because it's "improbable" EPA would always be able to obtain such underlying data, Underwood added, "this should not impede the use of otherwise high-quality studies."

The proposed rule — "Strengthening Transparency in Regulatory Science" — would generally limit EPA to using studies for which the underlying research data "are publicly available in a manner sufficient for independent validation," according to the text.

In unveiling the plan this spring, then-EPA Administrator Scott Pruitt touted it as a confidence booster in agency decision making. Critics view that premise as a smokescreen for thwarting consideration of research that would help justify stricter regulations.

After Pruitt resigned last month under White House pressure, an array of advocacy groups opposed to the proposed rule have urged acting EPA Administrator Andrew Wheeler to scrap it (*Greenwire*, Aug. 15). In an interview last month, Wheeler said that he would take "a hard look" at the proposal but added that he believed "the more information we put out to the public as far as what we're basing our regulations on, the better our regulations will be" (*Greenwire*, July 13).

The Defense Department, the largest federal agency when measured by its budget and the size of its civilian workforce, is also a prime sponsor of scientific research. Underwood's comments were among more than a half-million that EPA received on the proposed rule by an Aug. 16 deadline; they were added late last week to the online docket on the Regulations.gov website. Under the draft rule, the EPA administrator could grant exceptions to the data access requirements under specified conditions.

Alongside a host of more technical concerns with the draft rule, Underwood urged EPA to allow for such exemptions when "underlying study data may be difficult to obtain from authors outside the agency." She also suggested that EPA "grandfather" existing analyses unless those studies "are being updated or challenged."

EPA's Kevin Minoli is Leaving the Agency

Kevin Minoli, the Agency's principal deputy general counsel and designated agency ethics official, has announced that he will depart at the end of September for a job in the private sector. Minoli came under the spotlight over the past year as various ethics controversies swirled around former Administrator Scott Pruitt, who resigned last month.

Minoli will join the law firm Alston & Bird LLP as a partner in its environmental law practice in Washington, D.C. Minoli, who has been at EPA for about 18 years, faced questions over actions by agency ethics officials related to Pruitt. He was often called upon to sign off on travel and housing for Pruitt, which would later draw scrutiny. Minoli gave a retroactive written approval in one memo for Pruitt and his staff to take a charter jet from Denver to Durango, Colo., in August last year. He had earlier given his verbal approval on the day of the flight, which is allowed under federal guidelines.

He also drafted two ethics memos regarding Pruitt's rent part of last year of a Capitol Hill condo that was linked to a lobbyist with business before EPA. He wrote the second memo after noting ethics officials were missing "factual information" when he wrote the first. The process behind the two memos seemed to be a bit chaotic, with reporters pouncing on yet another Pruitt scandal.

As EPA's top ethics official, Minoli had to keep track of the growing list of accusations against Pruitt for excessive spending and misuse of his office. Minoli would refer additional allegations against Pruitt to investigators at the EPA Office of Inspector General, according to a letter he sent to the Office of Government Ethics.

Minoli has been part of EPA since the summer of 1999, when he joined the agency as a law clerk. He later held several positions in EPA's law office and was named acting general counsel by the Obama administration to serve during the transition to the Trump administration.

Minoli worked on diversity and inclusion issues for EPA's workforce while at the agency, according to his official biography. He was part of the general counsel's Diversity Dialogue Group and helped recruit the office's first program manager for lesbian, gay, bi-sexual and transgender employees.

SCIENCE ADVISORY BOARD STAFF OFFICE

Established by Congressional directive in 1978 to provide scientific advice to the Administrator, the Science Advisory Board is authorized to:

- *review the quality and relevance of the scientific and technical information being used by the EPA or proposed as the basis for Agency regulations;*
- *review EPA research programs and plans;*
- *provide science advice as requested by the EPA Administrator, and*
- *advise the agency on broad scientific matters.*

Most (though not all) preliminary work of the SAB is done by subcommittees or panels focused on various environmental science topics. These groups are chaired by SAB members. Recommendations of subcommittees and panels are transmitted to the SAB for discussion and deliberation. Recommendations are forwarded to EPA only if the SAB determines that it is appropriate.

GAO Request: The Government Accountability Office (GAO) contacted SABSO to request clarification and an explanation on the peer review process SABSO follows during its review of IRIS assessments as part of its field research under GAO engagement on the Environmental Protection Agency's (EPA) Chemical Management Strategies—code 102673. Earlier this week, GAO sent SABSO eight questions regarding the management of the IRIS program's peer review process. The SABSO will provide written response to these questions. The GAO plans to have a follow up conference call after reviewing the written responses to questions. SABSO has coordinated with NCEA staff regarding the GAO's self-initiated inquiry into demonstrated progress for assessing chemicals through the IRIS program.

UPDATE: Public Meeting: Chartered Science Advisory Board (SAB) Teleconference Meeting September 26, 2018—APPROVED—FRN TO BE PUBLISHED

The SAB Staff Office will host a public teleconference for the Chartered SAB on September 26, 2018, from 1:00pm to 5:00pm. Agenda items include two reviews. The Board will conduct a quality review of the finalized report on: 1) the draft SAB review of Ethyl Tertiary Butyl Ether and Draft Toxicological Review of tert-Butyl Alcohol; and 2) the draft SAB review of EPA's Framework for Assessing Biogenic Carbon Dioxide Emissions from Stationary Sources (2014). The Board will also receive briefings on SAB projects and future topics from EPA program staff.

OFFICE OF RESEARCH AND DEVELOPMENT

Science at EPA provides the foundation for credible decision-making to safeguard human health and ecosystems from environmental pollutants. The Office of Research and Development (ORD) is the scientific research arm of EPA, whose leading-edge research helps provide the solid underpinning of science and technology for the Agency.

ORD supports six research programs that identify the most pressing environmental health research needs with input from EPA offices, partners and stakeholders. Strategic Research Action Plans outline the research under way in the programs. The research is conducted by ORD's three national laboratories, four national centers, and two offices located in 14 facilities across the country and in Washington, D.C.

This week ORD and OW, in partnership with the Association of State Drinking Water Administrators, is hosting the 15th *Annual EPA Drinking Water Workshop: Small Systems Challenges and Solutions*, in Cincinnati, OH. Richard Yamada is attending the workshop. ORD scientists and managers will be delivering several technical presentations and moderating sessions.

Chris Robbins and Jennifer Orme-Zavaleta are in Stowe, VT this week at the 2018 Environmental Council of the States (ECOS) Silver Anniversary Meeting where ORD is showcasing two methods for easily accessing research products (EPA Research website and enhanced Science Inventory). The Environmental Research Institute of the States (ERIS) Board will also meet this week. Agenda topics include feedback on the near final draft ORD Strategic Plan, example proposed outputs to address state needs, and next steps for state engagement in ORD's strategic research planning.

List of the 75 PFAS Selected for Initial Testing by EPA and NTP Released on the EPA CompTox Dashboard

EPA and NTP are collaborating to develop a risk-based approach for conducting PFAS toxicity testing to facilitate PFAS human health assessments. A targeted subset of 75 PFAS were selected for initial testing based on multiple factors including cross-Agency interest, compounds within targeted categories, structural diversity, exposure considerations, procurability and testability, and availability of existing toxicity data.

More information can be found at <https://intranet.ord.epa.gov/ord/news/2018/08/28/weekly-compass-august-28-2018>



OFFICE OF INSPECTOR GENERAL

U.S. Environmental Protection Agency

NOTICE OF SCHEDULED REPORT ISSUANCE

The OIG expects to issue a final report for its audit about the EPA Administrator's Protective Service Detail on September 4, 2018 (morning). This report will be accompanied by a podcast.

U.S. EPA Office of Inspector General
1200 Pennsylvania Avenue, NW (2410T)
Washington, DC 20460
www.epa.gov/oig

File a [Hotline Complaint](#) of Fraud, Waste or Abuse in an EPA Program
Subscribe to our [Email Updates](#)
Follow [@EPAoig](#) on Twitter



U.S. ENVIRONMENTAL PROTECTION AGENCY
NEWS RELEASE
WWW.EPA.GOV/NEWSROOM

EPA Gears Up for Final PFAS Community Engagement Event in Leavenworth, Kansas Next Week

WASHINGTON (August 30, 2018) – Yesterday, the U.S. Environmental Protection Agency (EPA) released the full agenda for the final per- and polyfluoroalkyl substances (PFAS) community engagement event. The event will take place on September 5, 2018, at the Riverfront Community Center, 123 S. Esplanade, Leavenworth, Kansas. The event is open to the public and includes presentations from EPA experts about PFAS, research, and an overview of PFAS in Kansas, Missouri, Iowa and Nebraska. Starting at 3:30 p.m. CST, EPA will host a community listening session to hear directly from Heartland communities, states, local governments, and tribes about their experiences with PFAS.

“EPA has received more than 60,000 public comments regarding PFAS since our National Summit in Washington, D.C., in May. The Leavenworth event is EPA’s fifth and final community engagement event held in locations across the country. While the Heartland states have seen fewer cases of PFAS contamination compared to other parts of the country, we are looking forward to hearing from our stakeholders and community members as we work together to manage PFAS,” said EPA Regional Administrator Jim Gulliford.

WORKFLOW

(This is not an exhaustive list)

LRMS:

DJM-115-205, HR6550 FedRAMP Authorization Act Federal Risk and Authorization Management Program Reform Act of 2018 (8/27) – no comment.

MJR-115-330, DOI Letter on S664 Navajo Utah Water Rights Settlement Act of 2017 (8/29)

CMB-115-222, OSTP Report on Interagency Funding for Activities of the National Science and Technology Council Report (831)

QFRS:

House Energy and Commerce Budget Hearing QFRs—CLEARED

Senate Appropriations Committee Budget Hearing QFRs— In process

Environment & Public Works Committee Hearing QFRs—In process

Briefings:

Briefing Request: Fall 2018 (TBD), Shimkus' (H) staff requested a bipartisan briefing on the tire crumb report.

Briefing Request: August 29 – within next 2 weeks, Homeland Security and Government Affairs (S) requested a briefing on Computers for Learning Program at EPA.—COMPLETE

Congressional:

Technical Assistance

- HEC/HSST— Chemical Assessment Improvement Act
- CBO— Chemical Assessment Improvement Act
- CRS— Chesapeake Bay 2019 Funding Outlays